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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:

**SCOTTSDALE INSURANCE COMPANY,**

**NAIC #41297**

**Respondent**

) Docket No. 01A-253-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Scottsdale Insurance Company ("SIC"). The Report of Examination of the Market Conduct Affairs of SIC alleges that SIC has violated A.R.S. §§ 20-385, 20-400.01, 20-461, 20-466.03, A.A.C. R20-6-801 and Consent Order, Docket No. 97A-078, dated May 15, 1997.

SIC wishes to resolve this matter without formal proceedings, neither admits nor denies the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

**FINDINGS OF FACT**

1. SIC is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of SIC. The on-site examination covered claims and underwriting actions for the time period from January 1, 1999 through December 31, 2000, and was concluded on March 29, 2001. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Scottsdale Insurance Company" dated March 29, 2001.

1           3.     Following a market conduct examination of SIC as of May 24, 1994, the  
2 Director entered a Consent Order, Docket No. 97A-078, which was filed on May 15,  
3 1997 (the "1997 Order"). In pertinent part, the 1997 Order stated as follows:

4           **IT IS HEREBY ORDERED THAT:**

5           1. Scottsdale shall not:

- 6           a. knowingly violate orders of the Director;
- 7           b. fail to document the facts in support of adjustments to full manual  
8 premiums;
- 9           c. issue policies at premiums other than those determined upon the basis  
10 of its filed rates and rules;

11           2. Within ninety (90) days of this Order's filed date, Scottsdale shall submit to  
12 the Director written action plans to monitor Arizona issued policies to  
13 ensure the following:

- 14           a. that personnel use only rates, rating plans and rating rules which have  
15 been filed with the ADOI by Respondents or on their behalf;
- 16           b. that policy worksheets are prepared and retained in policy files...
- 17           c. that personnel document facts to support any adjustment to full manual  
18 premiums;

19           4.     The Examiners reviewed 106 of 8,874 personal lines policies issued or  
20 renewed during the time frame of the Examination and found as follows:

- 21           a. SIC failed to apply a 10% renewal credit on six policies.
- 22           b. SIC failed to apply the correct protection classes or pro-rate factors to  
23 five policies.

24           5.     The Examiners reviewed 69 of 47,156 commercial lines policies issued  
25 or renewed during the time frame of the Examination and found as follows:

- 26           a. SIC failed to consider 10 risks that were eligible for experience and  
27 schedule rating.
- 28           b. SIC failed to use a schedule credit/debit rating worksheet that  
29 complied with the filed schedule credit/debit program on 25 commercial automobile  
30 policies.



1 c. SIC applied an unfiled experience rating plan on 2 commercial  
2 automobile policies.

3 d. SIC failed to apply the correct loss cost multiplier factors to 25  
4 commercial automobile policies.

5 6. The Examiners reviewed 58 of 290 closed without payment claims, 52 of  
6 1,962 closed with payment claims, 22 of 22 first party and 24 of 24 third party  
7 automobile total loss settlements incurred during the time frame of the Examination  
8 and found as follows:

9 a. SIC failed to use the correct company name on all claim forms  
10 and correspondence sent to its insureds and claimants.

11 b. SIC failed to include all applicable sales taxes and license fees in  
12 the settlement of 14 first party automobile total losses.

13 c. SIC failed to include all applicable sales taxes and license fees in  
14 the settlement of seven third party automobile total losses. SIC paid the appropriate  
15 sales taxes and license fees on the remaining 17 third party automobile total loss  
16 claims.

17 d. SIC failed to include the Arizona Fraud warning on 57 claims  
18 forms.

19 7. SIC's failure to apply the correct renewal credit, failure to apply the  
20 correct pro-rate factor and application of an unfiled experience rate plan resulted in  
21 11 insureds being overcharged a total of \$9,983. SIC's failure to pay all taxes and  
22 fees on first and third party automobile total loss settlements resulted in 21 claimants  
23 and insureds being underpaid a total of \$5,878.93. All overcharges and  
24 underpayments have been refunded or paid to the insureds and claimants.

**CONCLUSIONS OF LAW**

1. SIC violated A.R.S. §20-385(A) and the 1997 Order by failing to apply its 10% renewal credit, failing to apply correct protection classes and pro-rate factors in the premium determination of personal lines policies.

2. SIC violated A.R.S. §§20-385(A), 20-400.01(A) and the 1997 Order by failing to consider all eligible risks for experience and schedule rating, failing to use its filed schedule credit/debit rating worksheet, applying an unfiled experience rating plan and failing to apply the correct loss cost multiplier factors in the premium determination of commercial policies.

3. SIC has violated A.R.S. §20-461(A)(1) and A.A.C. R20-6-801(C) by failing to assure that the correct company name is identified on all claim forms and correspondence sent to its insureds and claimants.

4. SIC violated A.R.S. §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by failing to include all sales taxes and license fees in the settlement of first party automobile total loss claims.

5. SIC violated A.R.S. §20-461(A)(6) by failing to treat all third party automobile total loss claimants in a prompt, fair and equitable manner by not including all sales taxes and license fees in the settlement of some third party automobile total loss claims when SIC paid the appropriate amount of sales taxes and license fees to other third party automobile total loss claimants.

6. SIC violated A.R.S. §20-466.03 by failing to include the Arizona Fraud warning on its claims forms.

7. Grounds exist for the entry of the following Order, in accordance with A.R.S. §§20-220 and 20-456.



**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. SIC shall cease and desist from:

a. Failing to comply with filed rates and rules in the issuance of new and renewal personal lines policies.

b. Failing to comply with filed rates and rules in the issuance of new and renewal commercial policies.

c. Failing to use schedule rating worksheets, in the premium determination of its commercial automobile policies, which do not comply with the filed schedule credit/debit program

d. Failing to file its commercial automobile experience rating plan with the Department.

e. Failing to identify the correct company name on all claim forms and correspondence sent to its insureds and claimants.

g. Failing to include applicable sales taxes and license fees, in the settlement of first party automobile total loss claims.

h. Failing to include all sales taxes and license fees in the settlement of automobile total loss claims when other third party automobile total loss claims are appropriately paid.

i. Failing to include the Arizona Fraud warning on claims notices.

2. Within 90 days of the filed date of this Order, SIC shall submit to the Department, for approval, evidence that corrections have been implemented and communicated to the appropriate personnel regarding all of the items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of corrective

1 action and communication thereof includes, but is not limited to memos, bulletins, E-  
2 mails, correspondence, procedure manuals, print screens and training materials.

3 3. Within 120 days of the filed date of this Order, SIC shall conduct a self-  
4 audit of its personal lines homeowner policies (1999 through 2000) to determine how  
5 many renewal policies were overcharged by the Company's failure to apply its 10%  
6 renewal credit.

7 4. Within 120 days of the filed date of this Order, SIC shall conduct a self-  
8 audit of its personal lines dwelling fire policies (1999 through 2000) to determine how  
9 many were affected by the application of an incorrect protection class.

10 5. All insureds who were subject to overcharges identified following the self-  
11 audits mentioned in Paragraphs 3 and 4 above shall be refunded all such  
12 overcharges, plus interest at the rate of ten percent (10%) per annum calculated from  
13 the date paid by the insured to the date of repayment to the insured. All  
14 reimbursements shall be accompanied by a letter acceptable to the Director, indicating  
15 why the refund is being sent. A list of reimbursements, giving the name and address  
16 of each policyholder reimbursed, the amount of the overcharge, the amount of interest  
17 paid, and the date of payment shall be provided to the Department within 120 days of  
18 the filed date of this Order.

19 6. The Department shall be permitted, through authorized representatives,  
20 to verify that SIC has complied with all provisions of this Order.

21 7. SIC shall pay a civil penalty of \$10,000 to the Director for deposit in the  
22 State General Fund in accordance with A.R.S. §§20-220(B) and 20-456. This civil  
23 penalty shall be provided to the Market Conduct Examinations Section of the  
24 Department prior to the filing of this Order.  
25

8. The Report of Examination of the Market Conduct Affairs of SIC dated March 29, 2001, including the letter submitted in response to the Report of Examination, shall be filed with the Department after the Director has filed this Order.

DATED at Phoenix, Arizona this 2<sup>nd</sup> day of November, 2001.

Clark C. G.

Charles R. Cohen  
Director of Insurance

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**CONSENT TO ORDER**

1. Scottsdale Insurance Company has reviewed the attached Consent Order.

2. Scottsdale Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of Fact and Conclusions of Law, and consents to the entry of the Order.

3. Scottsdale Insurance Company is aware of its right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Scottsdale Insurance Company irrevocably waives its right to such notice and hearing and to any court appeals related to this Order.

4. Scottsdale Insurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. Scottsdale Insurance Company acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or its subdivisions or any other person from any other civil or criminal proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. R. Max Williamson, who holds the office of President of Scottsdale Insurance Company, is authorized to enter into this Order for it and on its behalf.

**SCOTTSDALE INSURANCE COMPANY**

10/30/01  
Date

By:

R. Max Williamson  
R. Max Williamson, President



1 COPY of the foregoing mailed/delivered  
2 This 5th day of November 2001, to:

3 Sara Begley  
4 Deputy Director  
5 Mary Butterfield  
6 Assistant Director  
7 Consumer Affairs Division  
8 Paul J. Hogan  
9 Chief Market Conduct Examiner  
10 Market Conduct Examinations Section  
11 Deloris E. Williamson  
12 Assistant Director  
13 Rates & Regulations Division  
14 Steve Ferguson  
15 Assistant Director  
16 Financial Affairs Division  
17 Nancy Howse  
18 Chief Financial Examiner  
19 Alexandra Shafer  
20 Assistant Director  
21 Life & Health Division  
22 Terry Cooper  
23 Fraud Unit Chief

24  
25 DEPARTMENT OF INSURANCE  
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Curvey Buster